

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing the heading of Article 16G and Sections 16G-1,
6 16G-5, 16G-10, 16G-15, 16G-20, 16G-21, and 16G-25 as follows:

7 (720 ILCS 5/Article 16G heading)

8 ARTICLE 16G ~~FINANCIAL~~ IDENTITY THEFT
9 AND-ASSET-FORFEITURE LAW

10 (720 ILCS 5/16G-1)

11 Sec. 16G-1. Short title. This Article may be cited as the
12 ~~Financial~~ Identity Theft and-Asset-Forfeiture Law.

13 (Source: P.A. 91-517, eff. 8-13-99.)

14 (720 ILCS 5/16G-5)

15 Sec. 16G-5. Legislative declaration.

16 (a) It is the public policy of this State that the
17 substantial burden placed upon the economy of this State as a
18 result of the rising incidence of ~~financial~~ identity theft
19 and the negative effect of this crime on the People of this
20 State and its victims is a matter of grave concern to the
21 People of this State who have the right to be protected in
22 their health, safety, and welfare from the effects of this
23 crime, and therefore ~~financial~~ identity theft shall be
24 identified and dealt with swiftly and appropriately
25 considering the onerous nature of the crime.

26 (b) The widespread availability and unauthorized access
27 to personal identification information have led and will lead
28 to a substantial increase in identity theft related crimes.

29 (Source: P.A. 91-517, eff. 8-13-99.)

1 (720 ILCS 5/16G-10)

2 Sec. 16G-10. Definitions. In this Article unless the
3 context otherwise requires:

4 (a) "Personal identification document" means a birth
5 certificate, a drivers license, a State identification card,
6 a public, government, or private employment identification
7 card, a social security card, a firearm owner's
8 identification card, a credit card, a debit card, or a
9 passport issued to or on behalf of a person other than the
10 offender, or any document made or issued, or falsely
11 purported to have been made or issued, by or under the
12 authority of the United States Government, the State of
13 Illinois, or any other State political subdivision of any
14 state, or any other governmental or quasi-governmental
15 organization that is of a type intended for the purpose of
16 identification of an individual, or any such document made or
17 altered in a manner that it falsely purports to have been
18 made on behalf of or issued to another person or by the
19 authority of one who did not give that authority.

20 (b) "Personal identifying information" means any of the
21 following information:

- 22 (1) A person's name;
- 23 (2) A person's address;
- 24 (3) A person's telephone number;
- 25 (4) A person's drivers license number or State of
26 Illinois identification card as assigned by the Secretary
27 of State of the State of Illinois or a similar agency of
28 another state;
- 29 (5) A person's Social Security number;
- 30 (6) A person's public, private, or government
31 employer, place of employment, or employment
32 identification number;
- 33 (7) The maiden name of a person's mother;
- 34 (8) The number assigned to a person's depository

1 account, savings account, or brokerage account;

2 (9) The number assigned to a person's credit or
3 debit card, commonly known as a "Visa Card", "Master
4 Card", "American Express Card", "Discover Card", or other
5 similar cards whether issued by a financial institution,
6 corporation, or business entity;

7 (10) Personal identification numbers;

8 (11) Electronic identification numbers;

9 (12) Digital signals;

10 (13) Any other numbers or information which can be
11 used to access a person's financial resources, or to
12 identify a specific individual.

13 (c) "Document-making implement" means any implement,
14 impression, template, computer file, computer disc,
15 electronic device, computer hardware, computer software,
16 instrument, or device that is used to make a real or
17 fictitious or fraudulent personal identification document.

18 (Source: P.A. 91-517, eff. 8-13-99.)

19 (720 ILCS 5/16G-15)

20 Sec. 16G-15. Financial Identity theft.

21 (a) A person commits the offense of ~~financial~~ identity
22 theft when he or she knowingly:

23 (1) uses any personal identifying information or
24 personal identification document of another person to
25 fraudulently obtain credit, money, goods, services, or
26 other property, or-

27 (2) uses any personal identification information or
28 personal identification document of another with intent
29 to commit any theft or felony violation of State law not
30 set forth in paragraph (1) of this subsection (a), or

31 (3) obtains, records, possesses, sells, transfers,
32 purchases, or manufactures any personal identification
33 information or personal identification document with

1 intent to commit or to aid or abet another in committing
2 any theft or felony violation of State law, or

3 (4) uses, obtains, records, possesses, sells,
4 transfers, purchases, or manufactures any personal
5 identification information or personal identification
6 document of another knowing that such personal
7 identification information or personal identification
8 documents were stolen or produced without lawful
9 authority, or

10 (5) uses, transfers, or possesses document-making
11 implements to produce false identification or false
12 documents with knowledge that they will be used by the
13 person or another to commit any theft or felony violation
14 of State law.

15 (b) Knowledge shall be determined by an evaluation of
16 all circumstances surrounding the use of the other person's
17 identifying information or document.

18 (c) When a charge of ~~financial~~ identity theft of credit,
19 money, goods, services, or other property exceeding a
20 specified value is brought the value of the credit, money,
21 goods, services, or other property is an element of the
22 offense to be resolved by the trier of fact as either
23 exceeding or not exceeding the specified value.

24 (d) Sentence.

25 (1) A person convicted of identity theft in
26 violation of paragraph (1) of subsection (a) shall be
27 sentenced as follows:

28 (A) ~~Financial~~ Identity theft of credit, money,
29 goods, services, or other property not exceeding
30 \$300 in value is a Class A misdemeanor. A person who
31 has been previously convicted of ~~financial~~ identity
32 theft of less than \$300 who is convicted of a second
33 or subsequent offense of ~~financial~~ identity theft of
34 less than \$300 is guilty of a Class 4 felony. A

1 person who has been convicted of ~~financial~~ identity
2 theft of less than \$300 who has been previously
3 convicted of any type of theft, robbery, armed
4 robbery, burglary, residential burglary, possession
5 of burglary tools, home invasion, home repair fraud,
6 aggravated home repair fraud, or financial
7 exploitation of an elderly or disabled person is
8 guilty of a Class 4 felony. When a person has any
9 such prior conviction, the information or indictment
10 charging that person shall state the prior
11 conviction so as to give notice of the State's
12 intention to treat the charge as a felony. The fact
13 of the prior conviction is not an element of the
14 offense and may not be disclosed to the jury during
15 trial unless otherwise permitted by issues properly
16 raised during the trial.

17 (B) ~~(2)~~--~~Financial~~ Identity theft of credit,
18 money, goods, services, or other property exceeding
19 \$300 and not exceeding \$2,000 in value is a Class 4
20 felony.

21 (C) ~~(3)~~--~~Financial~~ Identity theft of credit,
22 money, goods, services, or other property exceeding
23 \$2,000 and not exceeding \$10,000 in value is a Class
24 3 felony.

25 (D) ~~(4)~~--~~Financial~~ Identity theft of credit,
26 money, goods, services, or other property exceeding
27 \$10,000 and not exceeding \$100,000 in value is a
28 Class 2 felony.

29 (E) ~~(5)~~--~~Financial~~ Identity theft of credit,
30 money, goods, services, or other property exceeding
31 \$100,000 in value is a Class 1 felony.

32 (2) A person convicted of any offense enumerated in
33 paragraphs (2) through (5) of subsection (a) is guilty of
34 a Class 4 felony.

1 (3) A person convicted of any offense enumerated in
 2 paragraphs (2) through (5) of subsection (a) a second or
 3 subsequent time is guilty of a Class 3 felony.

4 (4) A person who, within a 12 month period, is
 5 found in violation of any offense enumerated in
 6 paragraphs (2) through (5) of subsection (a) with respect
 7 to the identifiers of 3 or more separate individuals, at
 8 the same time or consecutively, is guilty of a Class 3
 9 felony.

10 (Source: P.A. 91-517, eff. 8-13-99; 92-792, eff. 8-6-02.)

11 (720 ILCS 5/16G-20)

12 Sec. 16G-20. Aggravated ~~financial~~ identity theft.

13 (a) A person commits the offense of aggravated ~~financial~~
 14 identity theft when he or she commits the offense of
 15 ~~financial~~ identity theft as set forth in subsection (a) of
 16 Section 16G-15 against a person 60 years of age or older or a
 17 disabled person as defined in Section 16-1.3 of this Code.

18 (b) Knowledge shall be determined by an evaluation of
 19 all circumstances surrounding the use of the other person's
 20 identifying information or document.

21 (c) When a charge of aggravated ~~financial~~ identity theft
 22 of credit, money, goods, services, or other property
 23 exceeding a specified value is brought the value of the
 24 credit, money, goods, services, or other property is an
 25 element of the offense to be resolved by the trier of fact as
 26 either exceeding or not exceeding the specified value.

27 (d) A defense to aggravated ~~financial~~ identity theft
 28 does not exist merely because the accused reasonably believed
 29 the victim to be a person less than 60 years of age.

30 (e) Sentence.

31 (1) Aggravated ~~financial~~ identity theft of credit,
 32 money, goods, services, or other property not exceeding
 33 \$300 in value is a Class 4 felony.

1 (2) Aggravated ~~financial~~ identity theft of credit,
2 money, goods, services, or other property exceeding \$300
3 and not exceeding \$10,000 in value is a Class 3 felony.

4 (3) Aggravated ~~financial~~ identity theft of credit,
5 money, goods, services, or other property exceeding
6 \$10,000 in value and not exceeding \$100,000 in value is a
7 Class 2 felony.

8 (4) Aggravated ~~financial~~ identity theft of credit,
9 money, goods, services, or other property exceeding
10 \$100,000 in value is a Class 1 felony.

11 (5) A person who has been previously convicted of
12 aggravated ~~financial~~ identity theft regardless of the
13 value of the property involved who is convicted of a
14 second or subsequent offense of aggravated ~~financial~~
15 identity theft regardless of the value of the property
16 involved is guilty of a Class X felony.

17 (Source: P.A. 91-517, eff. 8-13-99.)

18 (720 ILCS 5/16G-21)

19 Sec. 16G-21. Civil remedies. A person who is convicted
20 of ~~financial~~ identity theft or aggravated ~~financial~~ identity
21 theft is liable in a civil action to the person who suffered
22 damages as a result of the violation. The person suffering
23 damages may recover court costs, attorney's fees, lost wages,
24 and actual damages.

25 (Source: P.A. 92-686, eff. 7-16-02.)

26 (720 ILCS 5/16G-25)

27 Sec. 16G-25. Offenders interest in the property. It is no
28 defense to a charge of aggravated ~~financial~~ identity theft or
29 ~~financial~~ identity theft that the offender has an interest in
30 the credit, money, goods, services, or other property
31 ~~obtained-in-the-name-of-the-other-person~~.

32 (Source: P.A. 91-517, eff. 8-13-99.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.